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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,755

05/04/2005

Andreas Kursawe

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07/21/2009

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EXAMINER

GOFF II, JOHN L

ART UNIT

PAPER NUMBER

1791

MAIL DATE

DELIVERY MODE

07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/533,755

Applicant(s)

KURSAWE, ANDREAS

Examiner

John L. Goff

Art Unit

1791

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2009.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-15 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 04 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/CDC)
4) ☐ Interview Summary (PTO-413)
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____
Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 7/9/09 has been entered.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Erich (WO 03/024861 with US 2004/0099379 used as a translation).

Erich discloses a device (and method) having a conveyance device capable of conveying containers to which at least one exchangeable labeling unit for containers may be connected. The conveyance device includes a carousel (1) and a rotation coordinating unit (38). The labeling unit includes a control unit (34). The conveyance device and labeling unit are capable of exchanging signals (Figure 1 and Paragraphs 0008, 0029, 0031, and Claim 21).

Regarding the limitation of “wherein at least identification data of the labeling unit can be transmitted to the conveyance device, the identification data distinguishing the labeling unit from at least one other labeling unit”, it is noted the claims do not require any particular “at least one

other labeling unit”, and the “at least one other labeling unit” is considered any other possible labeling unit. Erich teaches the conveyance device and at least one labeling unit exchange signals. The data transmitted from the at least one labeling unit to the conveyance device is identification data of a working labeling unit this data further distinguishing the labeling unit from at least one other labeling unit not connected to the conveyance device the at least one other labeling unit being any other known labeling unit not specifically connected to the conveyance device. This interpretation of identification is consistent with the dictionary definitions submitted by applicants on 12/8/08 and consistent with that required by the claims, i.e. the identification data distinguishing the labeling unit from at least one other labeling unit. This data is also considered of the type required by claim 10.

Regarding claim 1, because the limitations “to which at least one exchangeable labeling unit for container *may be* connected” and “wherein at least identification data of the labeling unit can be transmitted to the conveyance device” do not require the at least one exchangeable labeling unit the limitation regarding transmitting identification data of the labeling unit to the conveyance device does not further limit the claim.

Regarding claim 2, the limitation “the labeling unit *being connectable* to a conveyance device for conveying the containers” does not require a conveyance device.

Claim Rejections - 35 USC § 102/103

4. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Bright et al. (EP 1122173).

Bright discloses a method and device for labeling containers. Bright teaches a conveyance device for conveying containers including a computer for transmitting and receiving data. Bright teaches at least one labeling unit for applying labels to conveyed containers connectable to the conveyance device including a computer capable of transmitting and receiving data (Figures 5 and 6 and Paragraphs 0019, 0033, 0044, 0052, 0056, and 0093).

Regarding the limitation of an “exchangeable labeling unit”, the at least one labeling unit taught by Bright is “exchangeable” as there is no description in Bright that the unit is somehow permanently installed, Bright simply depicts the at least one labeling unit as adjacent the conveyance device without any disclosure of attachment, and Bright suggests using a number of different types of labels suggesting different labeling units such that the limitations are met. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made that at least one labeling unit taught by Bright is exchangeable such that the device is useable with a number of different types of labels as suggested by Bright, the device can be removed for repair or upgrade, etc.

Regarding the limitation of “wherein at least identification data of the labeling unit can be transmitted to the conveyance device, the identification data distinguishing the labeling unit from at least one other labeling unit”, it is noted the claims do not require any particular “at least one other labeling unit”, and the “at least one other labeling unit” is considered any other possible labeling unit. Bright teaches the computer of the conveyance device receives transmitted data

from the at least one labeling unit such as position and status of the components of the unit and status of the label supply. This transmitted data identifies the at least one labeling unit as a labeling unit having components in a given position or status or having a label supply of a particular amount. This data distinguishes the at least one labeling unit from at least one other labeling unit, e.g. from a second labeling unit taught by Bright or from any other labeling unit known not connected to the conveyance device, in a number of ways such as wherein the at least one other labeling unit has the same components in a different position or status, the at least one other labeling unit has different components, the at least one other labeling unit has a different amount of label supply, etc. This interpretation of identification is consistent with the dictionary definitions submitted by applicants on 12/8/08 and consistent with that required by the claims, i.e. the identification data distinguishing the labeling unit from at least one other labeling unit. This data is also considered of the type required by claim 10.

Claim Rejections - 35 USC § 103

5. Claims 1-3, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bright in view of Erich and optionally Krug et al. (U.S. Patent 5,534,890).

Bright is described above in full detail. In the event Bright is considered to not necessarily include “exchangeable” labeling units the following rejection would apply. Erich is exemplary of a device similar to that of Bright wherein the labeling units are exchangeable for a different type of labeling unit depending upon the desired type of label construction (Paragraphs 0008, 0025, 0029, and 0031). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the at least one labeling unit taught by Bright such that

the unit(s) are exchangeable as shown by Erich such that the device can use any different type of label construction desired.

Regarding the limitation of “wherein at least identification data of the labeling unit can be transmitted to the conveyance device, the identification data distinguishing the labeling unit from at least one other labeling unit”, the following is also noted in addition to that set forth above in paragraph 4. Bright as modified by Erich teaches the computer of the conveyance device receives transmitted data from the at least one exchangeable labeling unit such as position and status of the components of the unit and status of the label supply. This transmitted data identifies the at least one labeling unit as a labeling unit having components in a given position or status or having a label supply of a particular amount which data also distinguishes the labeling unit as in use as compared to labeling units the unit may be exchanged for that are not currently in use. The following rejection is also optionally advanced regarding the identification data limitation. Bright teaches that the computer includes prestored information relating to the characteristics of the labeling apparatus, the desired container labeling characteristics, etc. (Paragraph 0019). It was known in the art of a device using exchangeable labels, i.e. analogous to a device including exchangeable labeling units such as that taught by Bright as modified by Erich, that the computer of the device detect the type of label used such that the computer automatically identifies the labels used and accesses prestored information relating to the operation of the device with that particular label as opposed to requiring manual input of the type of label from an operator as shown by Krug (Column 9, lines 25-39). It would have been obvious to one of ordinary skill in the art at the time the invention was made that each exchangeable labeling unit taught by Bright as modified by Erich transmit information to the

computer regarding the type of label in the unit such that the computer automatically accesses the prestored information relating to the operation of the that particular labeling unit as opposed to requiring manual input of the type of label from an operator as was known in similar applications of labels as shown by Krug, it being noted Bright as modified by Erich and optionally Krug teach each labeling unit transmits data identifying the labeling unit to the computer of the conveyance device the identification data distinguishing the labeling unit from the other exchangeable labeling units.

6. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bright (or Bright as modified by Erich and optionally Krug) in view of Hashiguchi et al. (U.S. Patent Application Publication 2002/0161467).

Bright (or Bright as modified by Erich and optionally Krug) is described in full detail above. Bright teaches both the conveyance device and at least one labeling unit include computers for controlling the device, e.g. via components and sensors. Bright is not limited to any particular type of computer (Paragraphs 0051 and 0052). Hashiguchi is directed to an inexpensive production management system and system for checking operating conditions of product producing apparatuses. Hashiguchi teaches each of the apparatus of the overall device comprise a computer within a remote control unit (RCE) (3) which computer is capable of controlling the components and sensors of the apparatus, transmitting data to and from each of the computers connected to different apparatus, capable of transmitting data over an internal computer network or internet connection by connecting with the network or internet, capable of storing transmitted information using internal memory (Figures 1 and 3 and Paragraphs 0001, 0004, 0009, 0011, 0013, 0049, 0050, 0054, 0057-0059, 0063-0067, and 0138). It would have

been obvious to one of ordinary skill in the art at the time the invention was made to use as the computer for each of the conveyance device and at least one labeling unit of Bright (or Bright as modified by Erich and optionally Krug) a computer within an RCU as shown by Hashiguchi to form an inexpensive production management system for labeling the containers and system for checking operation conditions of the conveyance device and the at least one labeling unit with each computer capable of transmitting data back and forth between the device and unit.

Regarding claims 1-3, 10, 11, and 14 and the limitation of “wherein at least identification data of the labeling unit can be transmitted to the conveyance device, the identification data distinguishing the labeling unit from at least one other labeling unit”, the following is also noted in addition to that set forth above in paragraphs 4 and 5. The conveyance device and at least one labeling unit taught by Bright as modified by Hashiguchi or (Bright as modified by Erich, optionally Krug, and Hashiguchi) transmits all operational, e.g. information regarding the operation of the device or unit via components and sensors, and product data, e.g. information regarding the containers and labels, between the two such that any of this operational and product data is identification data the transmitted data identifies the at least one labeling unit as a labeling unit in operation which data distinguishes the labeling unit from a unit not in use. The following is also noted. Hashiguchi further teaches each RCU is connected to a camera for monitoring the apparatus to which the RCU is connected whereby the computer transmits images of the apparatus to any of the other computers on the network. This information is identification data of the at least one labeling unit in operation and attached to the device which data distinguishes the labeling unit from a labeling unit not in operation or not attached to the device.

Regarding claims 4-7, 12, 13, and 15, Hashiguchi teaches each computer includes a unique IP address for connecting to the network. However, Hashiguchi teaches the IP addresses may be allocated dynamically by DHCP. Hashiguchi does not teach specifically where the transmission device, e.g. router, is located for allocating the IP addresses, it being noted the location of such transmission device is not critical (Paragraphs 0054 and 0138). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the transmission device taught by Bright as modified by Hashiguchi or (Bright as modified by Erich, optionally Krug, and Hashiguchi) on the conveyance device as only the expected results would be achieved whereby the conveyance device includes a transmission device that transmits at least one address information to the at least one labeling unit which at least one labeling unit includes memory for storing the address information. Regarding claim 5, the transmission device of the conveyance device is considered to include memory for several items of address information which can be transmitted, e.g. for two labeling units as taught by Bright. Regarding claims 6, 13, and 15, the transmission device for assigning the address information is provided exclusively for such, i.e. separate from the other computer transmission devices, also considered to intrinsically include different connections. Regarding claim 12, the transmission device intrinsically must transmit the address information to the labeling unit before any of the other components of the conveyance device transmit other information otherwise the labeling unit would not be connected to the network.

Response to Arguments

7. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Applicants argue, "Indeed, it is mentioned in these paragraphs of the present application that, by replacing a labeling unit, a different type of label may be applied in a different labeling method, and further that respective controls are switched to a desired labeling mode when a labeling unit is changed, and that due to the transmitting of the identification data, at least a portion of the required configuration can be accomplished automatically when the labeling unit is replaced. For switching controls appropriately to a desired labeling mode after a replacement of a labeling unit, the particularities of the labeling unit must be taken into account, whereas the mere fact that it is a labeling unit is not sufficient. In order for those above-noted paragraphs to make sense, the identification data is, therefore, to be understood to include these unique particularities of the respective labeling unit. If a labeling unit is exchanged out for another labeling unit (as mentioned in the specification), and then only the mere fact that a labeling unit is provided is given, then no difference could be found by the machine to which the labeling unit is connected. That is, there is no registration or recognition of the fact that a totally different labeling unit, with totally different characteristics and capabilities, is now present. The presently-claimed invention, however, refers to exchanging of one labeling unit against another labeling unit and providing identification which reflects this change."

The claims are not commensurate in scope with this argument. The claims do not require any of replacing a labeling unit where a different type of label is applied in a different labeling method. The claims do not require any controls switched automatically or otherwise to a desired

labeling mode when the labeling unit is changed. The claims do not require the identification data to include any unique particularities of the respective labeling unit. The claims do not require the machine find any difference regarding the labeling unit that is connected. Finally, the claims do not require exchanging of one labeling unit for another labeling unit and providing identification which reflects this change.

The claims merely require “wherein at least identification data of the labeling unit can be transmitted to the conveyance device, the identification data distinguishing the labeling unit from at least one other labeling unit” which limitation is fully addressed above.

Applicants further argue, “Moreover, it is to be noted that Bright even fails to disclose exchangeable labeling units.”.

The labeling units taught by Bright are units simply provided adjacent the conveyance device. There is no description or depiction in Bright that the units are in any way attached to the conveyance device, and in particular there is nothing in Bright which suggests the units are permanently installed. Therefore, it is unclear why the labeling units of Bright are not considered “exchangeable” as it readily appears the free standing units are readily exchangeable for a same or different labeling unit. It is further noted Bright is modified by Erich to teach the limitation.

Applicants further argue, “In the paragraph bridging pages 5 and 6 of the current Office Action, the Examiner states that the monitoring means mentioned in Hashiguchi would render a specific image of the apparatus, which is apparently considered to be some type of identification data, even in the sense as data distinguishing a labeling unit from another. It is to be noted, however, that it is in no case necessary that two labeling units have different visual appearance.

In actuality, they may “look” exactly the same, but have totally different characteristics. Therefore, an “image” of an apparatus cannot at all be assumed to identify the respective labeling unit in that sense, i.e. so as to distinguish one labeling unit from another. Moreover, according to Hashiguchi, the cameras are used to grasp production conditions and to monitor locations where abnormalities and malfunctions have occurred (see Hashiguchi at paragraph [0075]). As an example, a feeder needing adjusting and an item that has become lodged in a hopper are mentioned there. That is, it is to be assumed that the cameras are directed to positions at which the production is immediately processed, and to passing products, in order to check whether or not a production step is being carried out accurately or has been carried out correctly. Consequently, the respective processing unit is captured only marginally. In case of the labeling device, the camera would most likely be directed to the position where the label is applied, or behind at the already labeled items, and one would then check if the labels are being applied or have been applied at the right place and in the correct manner. However, one cannot assume or infer that, in this way, one labeling unit can be distinguished from another.”.

Hashiguchi teaches each RCU is connected to a camera for monitoring the apparatus to which the RCU is connected whereby the computer transmits images of the apparatus to any of the other computers on the network. This information is identification data of at least one labeling unit in operation and/or of at least one labeling unit connected to the device which data distinguishes the labeling unit from a labeling unit not in operation or not connected to the device.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **John L. Goff** whose telephone number is **(571)272-1216**. The examiner can normally be reached on M-F (7:15 AM - 3:45 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John L. Goff/
Primary Examiner, Art Unit 1791